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2021 MAY 13 PM 3:05
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U.S. DISTRICT COURT

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Federal Deposit Insurance Corporation, as Receiver for
America West Bank, L.C.*

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

**THE FEDERAL DEPOSIT INSURANCE
CORPORATION** as receiver of AMERICA
WEST BANK, L.C.

Plaintiff,

v.

DOUGLAS M. DURBANO, an individual,
and the **DURBANO LAW FIRM, P.C.**, a Utah
professional corporation

Defendants.

Case No. 1:09-cv-56

**REPLY IN SUPPORT OF MOTION TO
UNSEAL**

FILED UNDER SEAL

**LODGED WITH THE COURT UNDER SEAL
PURSUANT TO 2009-05-04 "ORDER SEALING CASE"**

Plaintiff, the Federal Deposit Insurance Corporation, as receiver of America West Bank, L.C. (FDIC-Receiver), respectfully files its reply in support of its motion to seal.

The FDIC's brief sets out its rationale for the motion, both in terms of legal standards under DUCivR 5-2 and the practical reasons relating to proceedings in Case 2:16-cv-326. Although defendants, in their opposition, contest the relevancy of the sealed documents to Case 2:16-cv-326, that is for Judge Oberg to decide,¹ and defendants offer no reason that warrants continued sealing of this case. FDIC-Receiver further notes that on May 10, 2021, plaintiff filed a short form motion to compel FDIC-Receiver to produce the very server that was at issue in this case. A copy of that filing is attached as an exhibit to this motion (minus the exhibits). FDIC-Receiver's opposition is due Monday, May 17, 2021. Several of the filings from this case will be submitted as exhibits to FDIC-Receiver's opposition and referenced in arguments. To be sure, FDIC-Receiver anticipates Judge Oberg will decide the motion to compel, but absent a court order unsealing this case before Monday, FDIC-Receiver will have to submit sealed filings in Case 2:16-cv-326. If there is a later hearing on the motion, that may have to proceed under seal as well and, as explained in FDIC-Receiver's motion, the circumstances that necessitated sealing the proceedings in 2009 no longer exist. A proposed order is attached.

Dated: May 13, 2021

Respectfully submitted,

/s/ Andrew J. Dober
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Corporation, in its Capacity as Receiver for
America West Bank*

¹ Motions in 2:16-cv-326 have been referred to Judge Oberg.

CERTIFICATE OF SERVICE

I, the undersigned counsel for the Federal Deposit Insurance Corporation, as Receiver for America West Bank, certify that on May 13, 2021, I filed the foregoing Reply in Support of Motion to Unseal by email to the clerk's office, and, certify that, a true and accurate copy of this motion was sent to Douglas Durbano and the Durbano Law Firm by email and mail.

Andrew Dober

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